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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Group Art Unit: 1772
)
) KOGURE, GOKURAKU, TAKAHASHI) Examiner: Marc A. Patterson
) IMANARI, KITAHAMA)
)
) Serial No. 09/629,949)
)
) Filed: August 1, 2000)

For: MULTI-LAYER EXPANSION-MOLDED ARTICLE OF POLYPROPYLENE
RESIN, PRODUCTION PROCESS THEREOF, AND CONTAINER,
SHOCK-ABSORBING MATERIAL FOR AUTOMOBILE AND AUTOMOTIVE
MEMBER FORMED OF THE MULTI-LAYER EXPANSION- MOLDED
ARTICLE OF POLYPROPYLENE RESIN

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

RECEIVED

Commissioner for Patents
Washington, D.C. 20231

JUL 8 2002

TC 1700

Sir:

This is in response to the Restriction Requirement bearing a mail date of June 18, 2002, setting a one-month time for response expiring on July 18, 2002. Accordingly, this Response is timely filed.

In view of the following remarks, Applicants respectfully request the Examiner to withdraw the pending restriction requirement.

SUMMARY OF RESTRICTION REQUIREMENT
AND SPECIES ELECTION

The Restriction Requirement states as follows:

Restriction to one of the following inventions
is required under 35 U.S.C. 121:

I. Claim 1-8 and 12-15, drawn to a
multi-layer expansion-molded article

classified in class 428, subclass 34.1.

II. Claims 9-11, drawn to a method of making a multi-layer expansion-molded article, classified in class 264, subclass 177.2.

The Restriction Requirement further states that the method of Group II "may be made by a different method, such as one in which layers are laminated, rather than extruded."

PROVISIONAL ELECTION

Applicants provisionally elect with traverse, claims 1-8 and 12-15 corresponding to Group I as provided in the Restriction Requirement. The election is made with traverse which in no way relates to reasons of patentability or constitutes an admission of obviousness. Applicants further preserve the right to file additional applications drawn to non-elected Groups.

TRAVERSAL

Applicants respectfully traverse the Examiner's Restriction Requirement as to Groups I and II made in the outstanding Restriction.

The touchstone for requiring restriction is determining whether two or more independent and distinct inventions are claimed within the same application. MPEP §806. Restriction should never be required where the claims of an application define the same essential characteristics of a single disclosed embodiment of the

invention. MPEP §806.03.

Notably, the MPEP does **not** require Applicant's admission of obviousness between the species prior to the Examiner making this initial determination.

Furthermore, MPEP 817 requires that an allegation of distinctness be supported by facts which show distinctness rather than a mere conclusion that an invention is in fact distinct.

Applicants respectfully traverse the restriction requirement between Groups I and II because presently pending claims 1-15 define the same essential characteristics. In the pending application, claims 1-15 share the same essential characteristics because each and every claim contains limitations directed to a particular multi-layer expansion-molded article having specific MFR and MT conditions. Since claims 1-15 contain these same essential characteristics, the same invention is claimed regardless of whether individual claims could be categorized as groups directed to methods of manufacture or compositions. In short, no rule limits the number of independent claims to a single product, method of making or method of using said product.

Regardless of any differences which may exist between the inventions set forth in the claims of Groups I and II, a complete and thorough search for the invention set forth in any one of the Groups I and II would require searching the art in areas appropriate to the Groups I and II. Both of the Group's I and II are directed to a multi-layer expansion molded article of a

polypropylene resin. Since a search of each of the groups would be coextensive, it would not be a serious burden upon the Examiner to examine all of the claims in this application.

For all these reasons, Applicants respectfully submit that claims 1-15 possess the same essential characteristics and thus define the same invention.

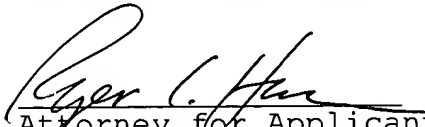
CONCLUSION

In view of the foregoing, Applicants respectfully request the Examiner to reconsider and withdraw the single ultimate disclosed specie requirement and to examine all of the claims pending in this application.

If the Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

Respectfully submitted,

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